

# **Exhibit E**



618 West Riverside Avenue  
Suite 300  
Spokane, WA 99201

Main: 509.777.1600  
Fax: 509.777.1616  
[foster.com](http://foster.com)

Direct Dial: 509.777.1604  
Fax: 509.777.1616  
[john.nelson@foster.com](mailto:john.nelson@foster.com)

June 8, 2022

**Via Email**

Janis E. Schlerf  
Travelers  
111 Schilling Road  
Hunt Valley, Maryland 21031  
[jschlerf@travelers.com](mailto:jschlerf@travelers.com)

Re: Murphy Oil: Montana Lawsuits

Dear Ms. Schlerf:

This letter provides a summary of the two cases pending against Murphy Exploration & Production Co., et al. ("Murphy") in the United States District Court for the District of Montana: *Michael E. Lockman, et al. v. Pioneer Natural Resources USA, Inc., Murphy Exploration & Production Co., et al.*, CV 4:20-67-BMM, and *Zimmerman, Inc., et al. v. Murphy Exploration & Production Co., et al.*, CV 4:20-68-BMM (hereafter, respectively, "*Lockman*" and "*Zimmerman*").

As background, Murphy conducted oil exploration and production activities in northeastern Montana between 1952 and 2002 -- as did a number of other companies. The *Lockman* and *Zimmerman* cases have been filed by corporate and individual landowners in the oil production area. The nearly identical Complaints assert claims for nuisance, trespass, negligence, strict liability for abnormally dangerous activity, and wrongful occupation based on alleged surface and groundwater contamination. Importantly, Plaintiffs seek "restoration damages" for the alleged contamination, as permitted by Montana law under the "reasons personal" exception to the traditional "diminution in value" remedy for such claims. Plaintiffs have also pleaded a claim for punitive damages. Murphy has denied the claims, asserted affirmative defenses, and filed crossclaims or third-party claims against other potentially liable parties (Pioneer Natural Resources in *Lockman*, Ballard Petroleum, Poplar Resources and Samson Resources in *Zimmerman*). Murphy's counsel continues to refine legal and factual research in support of Murphy's defenses to the plaintiffs' liability and damages claims in both cases.

The *Zimmerman* and *Lockman* Complaints were filed at the same time and were initially subject to nearly identical Scheduling Orders. The scheduled pleadings phase of the two cases has concluded (no further amendment except by leave of court), and the parties have conducted extensive written discovery and document production in both -- over 55,000 *files* have been produced collectively, many of which include numerous documents and hundreds of pages. But in October 2021 the *Zimmerman* case was stayed pending disposition of a motion *Zimmerman* filed in the Delaware bankruptcy proceedings of Samson

June 8, 2022

Page 2

Resources Corporation and several of its related entities (“Samson”). Like Murphy, Samson or its predecessors in interest had conducted oil production operations on Zimmerman’s property in the 1950s-80s. Zimmerman’s motion seeks an order that its claims against Samson are not barred by the bankruptcy court’s discharge order. Currently Zimmerman’s motion remains pending while Zimmerman and Samson conduct discovery. In the interim, Zimmerman and Murphy must provide periodic status updates to the Montana District Court. Once Zimmerman’s motion is resolved by the Delaware bankruptcy court we anticipate a new Scheduling Order will issue, with a trial date projected for late 2023 or early 2024. Murphy will be the principal target in *Zimmerman*.

Document and fact witness discovery has proceeded in *Lockman* over the past eight months, though a number of fact-witness depositions remain to be taken. The principal target in *Lockman* appears to be Pioneer Natural Resources, though Plaintiffs are also advancing an argument against Murphy. The Court’s Scheduling Order in *Lockman* requires liability expert witness disclosures on July 1, 2022, with damages and rebuttal expert disclosures concluding by September 2, 2022. The expert witness disclosures will trigger extensive deposition practice and additional discovery. The discovery cut-off is set for December 2, 2022. Pretrial motions must be fully briefed by January 23, 2023, and Murphy anticipates extensive dispositive motion practice and motions in limine. Several of the legal issues in the case seem to warrant certification to the Montana Supreme Court. A jury trial is scheduled to begin on June 12, 2023.

Murphy has engaged HydroSolutions, Inc. (in Billings, Montana), and Chemistry Matters Inc. (of Alberta, Canada) as consulting experts regarding *Zimmerman*’s claims related to groundwater and surface contamination. Murphy and Pioneer have jointly engaged an appraiser to opine regarding traditional “diminution in value” damages in the *Lockman* case (Mike Joki), and Murphy has independently engaged another appraiser for the *Zimmerman* case (Bethany Toews).

It is difficult to forecast a budget for the two matters. Plaintiffs have engaged three different law firms in the two cases, two of which have prior experience with similar claims. Their initial disclosures forecast a “restoration” damages claim (projected costs to restore groundwater and several thousand acres of surface soil), together with costs, personal loss and punitive damages. While we can’t yet gauge the amount of that claim, it could be substantial. Document discovery should be winding-down in both cases, but expert witness discovery will commence in *Lockman* in July, then motion practice in September and pretrial preparation in January 2023. *Zimmerman* will renew extensive fact witness discovery and a new round of expert witness disclosures, pretrial motion practice and trial work. All told, a conservative estimate for fees and costs in defense of the two actions is two million dollars over the next 24 months, although that figure is subject to substantial uncertainty – for example, if Defendants can prevail against all or some of the restoration claims by motion practice.

Very truly yours,



John Ray Nelson

JRN/jr

June 8, 2022

Page 3

cc: Mike Jackson (Murphy)  
Laura Pappenfus (Murphy)  
Dale Smart (Murphy)  
Thomas E. Birsic (K&L Gates)